

JUN. 6. 2007 12:55PM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/265,715	03/11/1999	ASSAF GOVARI	BIO-77	4849

TO FILE REFER TO

7590

05/20/2002

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EXAMINER

MANTIS MERCADER, ELENI M

ART UNIT

PAPER NUMBER

3737

DATE MAILED: 05/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

*Reopen Line*  
*Corrected*  
*dup*  
*8/20/02*

**Office Action Summary**

Application No.

09/265,715

Applicant(s)

GOVARI, ASSAF

Examiner

Eleni Mantis Mercader

Art Unit

3737

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4&5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 14-20 rejected under 35 U.S.C. 102(b) as being anticipated by Fabian'095.

Fabian'095 teach all the features of the instant invention including an apparatus for determining the disposition of an object relative to a reference frame having at least a field generator, which generates an electromagnetic field in a vicinity of an object, at least one transducer, which is fixed to the object which vibrates at a predetermined vibrational frequency and emits energy, responsive to an interaction of the electromagnetic field, at least one detector which detects the energy emitted by the transducer and generates signals in response thereto and a signal processor which receives and processes the detector signals to determine the coordinates of the object (col. 3, lines 64-68 and col. 4, lines 1-34).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 4-13 and 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fabian'095 in view of Ryan'552.

Fabian'095 teaches all the features of the instant invention including attaching the resonant marker on a surgical implement. However, Fabian'095 does not teach the use of the marker specifically on a catheter to locate a catheter. In the same field of endeavor Ryan'552 teaches the use of similar type markers to locate a catheter (col. 2, lines 56-67 and col. 3, lines 1-5). It would have been obvious to one skilled in the art at the time that the invention was made to have used the marker as taught by Fabian'095 in the catheter as taught by Ryan'552 in order to be able to localize the catheter via use of a similar type marker. The use of multiple markers would have been an obvious modification to skilled artisans in order to use techniques such as triangulation, which are well within the knowledge of skilled artisans in order to localize and determine the orientation of a catheter of interest.

#### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Acker et al.'089 teach medical procedures and apparatus using intrabody probes.

Szymaitis'718 teaches an apparatus for detecting surgical objects within the human body.

England et al.'007 teaches surgical devices and their location.

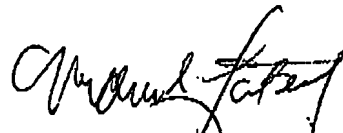
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is 703 308-0899. The examiner can normally be reached on Wed. - Wed., 7:00 a.m.-5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 703 308-7635. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308-0758 for regular communications and 703 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0858.



Marvin M. Lateef  
Supervisory Patent Examiner  
Group 3700



EMM  
December 28, 2001